REMARKS

This is a Response to the Office Action mailed June 16, 2005, in which a three (3) month Shortened Statutory Period for Response has been set, due to expire September 16, 2005. Fifteen (15) claims, including four (4) independent claims, were paid for in the application. Claims 8-10 have been canceled without prejudice. The Director is authorized to charge any additional fees due by way of this Amendment, or credit any overpayment, to our Deposit Account No. 19-1090. Claims 1-15 are pending.

Obviousness-Type Double Patenting Rejections

Claims 8-10 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 20 of U.S. patent 6,230,006 to Keenan et al.

Claims 1-15 (sic) and 11-15 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 14 and 20 of U.S. patent 6,230,006 in view of U.S. patent 6,201,802 to Dean.

Claims 6 and 7 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 20 of U.S. patent 6,230,006 in view of U.S. patent 6,201,802 and further in view of U.S. patent 6,169,883 to Vimpari et al.

The Examiner has maintained the double patenting rejections from the previous Office Action, summarily stating "in response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking the references individually where the rejections are based on combinations of references," relying on *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981) and *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Applicants respectfully disagree with the Examiner's characterization of the arguments made in the previous response.

In the interest of moving prosecution forward, Applicants assume the Examiner intended the rejection of paragraph 4 to apply to claims 1-5 and 11-15, rather than 1-15 and 11-15. If such assumption is incorrect, Applicants respectfully request the Examiner to clarify the rejection.

In entering the original obviousness type double patenting rejection of claims 1-5 and 11-15 (Office Action mailed December 16, 2004), the Examiner relied on the teachings of

Dean to *supply the teachings missing from* the primary reference U.S. 6,230,006. In particular, the Examiner relied on Dean for teaching "a system and method to synchronize with the transmission from a base station, a remote unit performs repeated time offset searches with the pilot PN code until the pilot channel is detected." The Examiner contended that it would have been obvious to one of ordinary skill to add the function taught by Dean to the teachings of US 6,230,006, thus providing proper communications since remaining synchronized with each base station when a telephone call or other communication is in progress is especially useful as it assists in conducting a soft handoff rapidly.

Thus, by explaining why the teachings of Dean do *not* actually teach the claimed limitation, Applicants are *fully addressing the combination* since the Applicants are clearly showing that Dean does *not supply* the teachings that the Examiner identifies as missing from US 6,230,006.

Consideration of Applicants' previous remarks with respect to Dean are thus respectfully requested. In particular, Applicants previously noted that in all embodiments taught by Dean, the base station timing analyzer results are displayed and/or logged for later analysis. There is no suggestion that the results be used to update operation of the base station or operation of a remote device such as a cellular phone. In fact, Dean suggests that it will typically require many hours to detect drift of the base station, rendering the base station timing analyzer unsuitable for timing re-synchronization of base stations or remote devices. Thus, in contrast to the Examiner's contention, the base station timing analyzer does *not* re-synchronize or otherwise maintain synchronization of the base station or any other device such as a remote call processor. In fact, synchronization is performed *within the base station itself* via the base station timing adjust unit based on GPS signals. Dean, col. 3, lines 9-44. The base station timing analyzer simply detects divergence from synchronization, *displaying* such divergence, and *logging* the same for later analysis. Dean, col. 7, lines 32-39; col. 8, lines 36-47; col. 9, line 65-col. 10, line 9. There is no feedback from the base station timing analyzer to the base station, hence the ability to measure the timing performance of a base station "without interruption or degradation of the system performance." Dean, Abstract. Thus, Dean teaches a base station that re-synchronizes itself, and a separate base station timing analyzer proximately located to the base station to analyze *but not* correct timing errors.

In entering the original obviousness type double patenting rejection of claims 6 and 7 (Office Action mailed December 16, 2004), the Examiner relied on the teachings of Vimpari to *supply the teachings missing from* the primary reference U.S. 6,230,006 and Dean. In particular, the Examiner noted that neither U.S. 6,230,006 nor Dean taught "at least one test short message service (SMS) data to said destination telecommunications device; and testing by said controller of said destination telecommunications device receiving said test SMS data so as to verify proper operation of SMS signal transmission in said telecommunications network." Consequently, the Examiner relied on Vimpari for teaching "the use of SMS or a protocol built on SMS for sending the message starting measurement functions in a cellular system," contending that it would have been obvious to one of ordinary skill in the art to modify the combination of U.S. 6,230,006 and Dean, and thus be able to start a test by means of a remote operation center, a subscriber network element or a base station.

Thus, by explaining why the teachings of Vimpari do *not* actually teach the claimed limitation, Applicants are *fully addressing the combination* since the Applicants are clearly showing that Vimpari does *not supply* the teachings that the Examiner identifies as missing from the combination of US 6,230,006 and Dean.

Consideration of Applicants' previous remarks with respect to Vimpari are thus respectfully requested. In particular, Applicants previously noted that the reference in claims 6-7 to SMS is not directed to the testing trigger, but rather is directed to the type of service being tested (e.g., "testing by said controller of said destination telecommunications device receiving said test SMS data so as to verify proper operation of the SMS signal transmission in said telecommunications device").

As discussed above, Applicants have demonstrated that Dean does *not* supply the teachings missing from US 6,230,006, thus the failure of the *combination* to teach the claimed limitations is *fully* addressed. As discussed above, Applications have demonstrated that Vimpari does *not* supply the teachings missing from US 6,230,006 and Dean, thus the failure of the *combination* to disclose the claimed limitations is likewise *fully* addressed. For the above reasons, Applicants respectfully contend that claims 1-5, 6-7 and 11-15 are patentably distinct over the claims of U.S. 6,230,006, and consequently request that the Examiner withdraw the obviousness-type double patenting rejection of claims 1-5, 6-7 and 11-15.

Applicants do not traverse the obviousness-type double patenting rejection of claims 8-10, and cancel those claims in order to put the application in condition for allowance, without prejudice to adding those claims should the obviousness-type double patenting rejection be upheld as being valid.

Favorable consideration and indication of the allowability of claims 1-5, 6-7 and 11-15 are earnestly solicited.

Respectfully submitted,

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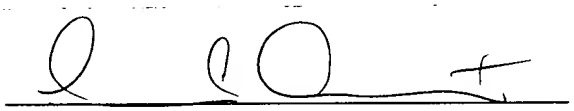

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